

Serial No.: 10/527,125  
Resp. dated September 12, 2008  
Reply to Final Office Action of July 9, 2008

PATENT  
PU020419  
Customer No. 24498

### Remarks/Arguments

The Office Action mailed July 9, 2008 has been reviewed and carefully considered.

Claims 1 and 10 have been amended, Claims 2 and 16 have been canceled without prejudice. Claims 1, 3-15 and 17-22 remain pending in this application.

Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-6, 10-13, 16 and 18-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,014,694 to Aharoni et al. Applicant notes that the rejections asserted in this office action are literally identical to those of the First office action dated January 28, 2008, with no comments on applicant's previously submitted arguments with respect to the primary reference to Aharoni et al.

Claims 1 and 10 have been amended to include recitations previously submitted in dependent claims 2 and 16, respectively. In rejecting claim 2 and 16, the Examiner cited Figure 5 showing five different bit rates of a single frame, and Figure 10 which is a graphical representation of the receiver bit rate versus the number of bytes online. In citing Figure 10, the Examiner states "Fig. 10 shows the bit rate not exceeding the capacity for the program in time." Unfortunately, the graphical representation in Figure 10 is not based on time at all, and as such, clearly does not anticipate, nor render obvious, applicant's amended claim language where the generation of the two different bit rate

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representations of each program includes "generating for each program a lowest bit rate representation having a peak bit not greater than  $C/P$  where  $C$  is the total channel capacity in time  $T$ , and  $P$  is the total number of programs."

Furthermore, a review of the description of Figure 10 confirms applicant's position in this respect. At Col. 13, lines 20-26, Aharoni states:

A graph illustrating the receiver bit rate versus the number of bytes online is shown in Fig. 10. The number of bytes transmitted into the network pipe is increased slowly until a point is reached where bytes are not received any quicker at the client. The term bytes on line means the number of bytes or packets that have been transmitted by the server or the sender but not yet received by the client.

Applicant cannot find anything in the description of Figure 10 that remotely suggests

"generating for each program a lowest bit rate representation having a peak bit not greater than  $C/P$  where  $C$  is the total channel capacity in time  $T$ , and  $P$  is the total number of programs."

Applicant has amended independent claims 1 and 10 with this feature of the invention. As such, and in view of the clear distinction between Aharoni et al. and the invention as recited in independent claim 1 and 10, applicant respectfully requests reconsideration and withdrawal of the rejection, and early allowance on the merits.

Claims 3 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,014,694 to Aharoni et al., in view of U.S. Patent publication No. 2002/0010938 to Zhang et al.

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Claims 7-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,014,694 to Aharoni et al., in view of U.S. Patent No. 5,940,738 to Rao.

Claims 9 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,014,694 to Aharoni et al., in view of U.S. Patent Publication No. 2003/0046704 to Laksono et al.

Claims 14-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,014,694 to Aharoni et al., in view of U.S. Patent No. 6,665,872.

Claims 2-9 and 11-21 depend from independent claims 1 and 10, respectively. As such, these dependent claims are allowable based on the distinctions between their parent claims and the primary reference to Aharoni et al.

Reconsideration and allowance of all claims on the merits, as originally filed is respectfully requested.

#### **Conclusion**

In view of the foregoing amendments to the claims and the accompany remarks, applicants solicit entry of this amendment and allowance of the claims. If, however, the Examiner believes such action cannot be taken, the Examiner is invited to contact the applicants' attorney at (609) 734-6820, so that a mutually convenient date and time for a telephonic interview may be scheduled.

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It is believed that no fee is due with regard to the filing of this revised response; however, if there is a fee due, please charge the amount due, to Deposit Account No. 07-0832.

Respectfully submitted,  
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September 12, 2008